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# USAID/MACEDONIA JUDICIAL STRENGTHENING PROJECT (JSP)

**MONTHLY REPORT: AUGUST OF 2012**

September 6, 2012

This publication was produced for review by the United States Agency for International Development. It was prepared by Tetra Tech DPK.

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## **I. PROGRAM-RELATED ACTIVITIES AND TASKS**

### **I. RESULT 1: STRENGTHENING ADVOCACY AND CITIZEN PARTICIPATION IN JUDICIAL SECTOR REFORM**

#### **I.1. Requirement 1.1 - A short, Focused Assessment, Baseline Survey, and Resulting Action Plan on Judicial-Sector Professional Associations and Civil Society Organizations, and the Role they Can Play in Strengthening the Rule-of-Law Area in Macedonia**

The Judicial Strengthening Project (JSP) assists selected legal professional associations (LPAs) and civil society organizations (CSOs) to provide better services to and advocate for the interests of their members. The goal is to foster the demand side of judicial reform and build pressure on the Government of Macedonia (GOM) and judicial leadership to undertake reforms that advance judicial independence and effectiveness. The project identified relevant professional associations and CSOs willing and able to advocate for judicial reform. The JSP has been focusing during the first year of implementation on assessing and strengthening the capacity of the organizations selected.

The short focused initial assessment of the organizational needs of 11 professional organizations and CSOs was completed earlier in the project by the selected sub-contractor, The Center for Institutional Development (CIRa). Three organizations were selected for phase II of the assessment. The selected organizations are:

- The Macedonian Judges Association (MJA);
- The Macedonian Young Lawyers Association (MYLA);
- The Court Administration Association (CAA).

In phase II, CIRa conducted a performance organizational assessment of the three selected organizations to identify performance gaps and to recommend training and technical assistance packages customized to the needs of each. The JSP team then initiated phase III of the capacity building initiative as required by contract Requirement 1.2.

#### **I.2 Requirement 1.2 - Per the Findings of Requirement 1.1, the Capacity of at Least two Judicial Sector Professional Associations are Improved**

After discussing the CIRa report findings with the JSP Contracting Officer Representative (COR), approval was granted to the JSP to proceed with phase III, which includes activities specifically designed to enhance the capacity of the selected organizations in accordance with the proposed action plan. This upcoming third phase will include trainings and workshops between October 2012 and November 2013. An RFP to implement these activities was previously posted with a submission date of July 16, 2012 (as stated in the previous monthly report). However, no acceptable proposals were received and the RFP was re-posted with some modifications. The submission deadline was therefore postponed to Friday, September 7, 2012.

This procurement for phase III was distributed again to potential vendors and posted on the USAID/Macedonia website, the website of the implementer, Tt DPK, and the JSP website: [www.judicialsupport.org](http://www.judicialsupport.org) on August 21, 2012. The project will complete the evaluation of the technical and cost proposals by September 15, 2012. The contract with the selected bidder will be signed on or about September 20, 2012.

Each of the three targeted organizations received a copy of their corresponding areas of improvement from the phase II CIRa report, to inform them of the assessment's observations. This CIRa report is an important tool for them to use in their self-help endeavors outside of the formal workshops and trainings proposed by the JSP. A disaggregated portion of the report was also sent to the organizations that were not selected for targeted training to use as a self-help tool as well. The JSP was contacted by two of these organizations, Coalition All for Fair Trails and Macedonian Young Lawyers Association, to correct some minor inaccuracies from this report. The JSP will be discussing those proposed corrections with CIRa in September.

### **1.2.1 Grant Assistance to LPAs and CSOs**

The project continued to engage LPAs and CSOs, including those not selected for targeted capacity-building training. The USAID Civil Society Project (CSP) awarded one year grants to two JSP partner organizations: (1) Coalition All for Fair Trials and (2) the Macedonian Young Lawyers Association (MYLA). These two organizations were selected out of 175 applications. This is a success story which has been written up by the JSP for publication by USAID (after approval from COR).

### **1.1.2 Macedonian Judges Association**

The JSP discussed possible dates for two remaining public discussions with the president of the Macedonian Judges Association (MJA). A discussion on "*Implementation of Law on Civil Procedure*" (with specific focus on issuing payment orders), is being organized for the end of September 2012. The remaining public discussion for this year is going to cover commercial law and will be organized after the completion of the "*Needs Assessment Training for Commercial Judges and Lawyers*" this fall.

### **1.1.3 Court Administration Association**

The Court Administration Association (CAA) is a relatively new organization, with approximately 1,200 members. It is comprised of court employees.

After the initial CIRa assessment, the CAA was chosen as one of the three organizations in need of assistance to strengthen and build institutional capacity. The CAA has a dynamic leadership and the institutional resolve to help build the Macedonian judiciary into a model for the region. This leadership supports the association's mission to protect court administrative staff and its rights and interests. The institution strives to increase professionalism and efficiency of court administrative staff and wishes to strengthen the capacity of its branch offices. To meet these goals, the JSP support is considered essential since this is a nascent organization with vital capacity strengthening needs. Adequate support will make the CAA administratively and financially sustainable. Since this is one of the organizations selected for targeted capacity building training it was included in the RFP issued in August and will benefit from the subsequent training.

### **1.1.4 Macedonian Young Lawyers Association**

The Macedonian Young Lawyers Association (MYLA) is a LPA that assists and provides continuing legal education for young lawyers, and works to promote and improve the lawyers' profession in Macedonia. The MYLA also works to promote and protect access to public information and supports the establishment of a free legal aid system. MYLA was one of the three associations chosen for enhanced institutional capacity building during phase III.

As reported above, the RFP for in-depth training for the three targeted LPAs was issued on August 21, 2012.

## **2. RESULT 2: MORE INDEPENDENT, EFFICIENT, AND CONSISTENT APPLICATION OF JUDICIAL POLICIES AND PRACTICES**

### **2.1 Requirement 2.1 - Legal Framework and Judicial Branch Policies Strengthen Independence, Effectiveness, and Accountability of the Judicial System.**

#### **2.1.1 Review and Advocacy of Laws by the Judiciary**

Two roundtables to discuss and assess the progress of reforms in Macedonia are being planned for this fall. The targeted audience for one of the roundtables is the judicial sector actors. This will include president judges and representatives of the administration and management of the courts. It will focus on the achievements in judicial reform to date and on what still needs to be accomplished. Emphasis will be placed on how the current laws are working and what gaps need to be filled.

The targeted participants for the other roundtable will be CSOs that include reform-minded NGOs and LPAs, lawyers, academics and other reform-minded individuals. Networking and collaboration will be encouraged among the participants for further activities.

The JSP has continued a series of discussion groups at the request of the MJA. The goal is to encourage the judiciary to be proactive in proposing laws and amendments, and in opposing laws compromising judicial independence and efficiency. Through roundtables and forums, amendments will be recommended and harmonization encouraged. Advocacy efforts to implement changes in the laws or to defeat laws that have a negative impact on the judiciary, the rule of law, or the independence of the judiciary will be stimulated by these activities.

During August, the courts, court administration and stakeholders and partners were, for the most part, enjoying vacation. Therefore, the continuation of this activity will begin in September, and will include roundtables with the MJA on the Civil Procedure Law (specifically payment orders), and on a specific topics involving Commercial Law (still to be determined).

### **2.2 Requirement 2.2 - Administration and Management Rules, Policies and Procedures, Systems and Practices to Support a Modern Court System**

#### **2.2.1 Strengthening Judicial Administration and Management Systems, Procedures, and Capacities**

The JSP undertook an assessment of the existing administration and management systems, procedures, and practices of the courts and judicial bodies. The JSP staff gathered selected materials that constitute the existing framework for court operations and as stated in the former monthly report, short-term consultant Ron Stout, submitted a final report which was accepted by USAID on June 28, 2012. The report contains five long-term recommendations and seven short-term recommendations that will help to re-structure and re-align court administration, filling gaps, and improving administration and management of the courts in general. The report was translated into Macedonian and distributed to a number of high-level judicial actors. Initial dialogue will begin at this high level, and the JSP will encourage broader dialogue, exploring the prospects on the adoption of some or all of the recommendations stated in the report. The initial recipients of the report include the president of the Judicial Council, the general secretary of the Supreme Court (there is an interim chief justice), and the president judges of the four appellate regions.

As noted in section 2.1.1 above, the JSP staff has talked about organizing a high level discussion group with policy and decision makers of the judiciary to discuss the recommendations, some of

which involve in-depth structural changes to court administration. It is expected that such discussion group will have its first meeting in September or October 2012.

### **2.2.2 Court Staffing Study and Recommended Staffing Guidelines**

The JSP undertook a study to support the development of staffing guidelines in courts. International court staffing expert, Dr. Ronald Stout, commenced the study and on-site work in March 2012, and submitted a final report on April 11, 2012. Reliable statistics are currently being collected in the Automated Court Case Management System (ACCMIS) database. When completed, a working group will complete the final stage, produce the “Staffing Guidelines for the Courts of the Republic of Macedonia,” and pass it on to the decision and policy makers for approval.

During the 2012 summer months, the JSP staff followed-up on the task of collecting the appropriate statistics from the courts – a task that began soon after the study was completed. The project staff worked closely with the Head of IT Services of the Supreme Court and obtained most of the statistical data to allow the project to finalize the staffing guidelines. To date, information has been obtained from 28 courts and only six are still pending. On August 29, the JSP sent a reminder to those courts, and it is expected that all required data will be collected by the end of September.

### **2.2.3 Court Service Council and Court Administrators Workshop**

During a two-day workshop on May 21 and 22, the Court Service Council (CSC), the Court Administrators, and the CAA met to address the topic of “*Employment, Evaluation, and Disciplinary Procedures of Court Employees*” in an event sponsored by USAID/JSP. Among other topics, the workshop reviewed policies and procedures for hiring and promoting non-judicial staff. The workshop also discussed key recent changes in the “Law on Court Service,” which prescribes specific responsibilities for court administrators during the procedure for selecting and hiring court employees. The workshop re-convened on July 12 and 13 to consider the proposed solutions, and to strive towards standardization of the procedures and practices for human resource management.

The CSC requested that the JSP support another one to two-day workshop, specifically focused on the proposed changes to the “Law on Court Services,” and draft a sub regulation on passing the examination for court apprentices.

The working group of the CSC adopted a revised sub-regulation for evaluation of court employees which, for the first time, defines evaluation criteria, as well as a new sub-regulation for conducting disciplinary procedures.

In August 2012, a round table was scheduled for the second half of September with representatives from the Ministry of Justice (MOJ) and the CSC. On August 9, the project staff met with MOJ representative, Ms. Maja Maljanovska, to discuss the strategy for organizing this formal presentation. At this round table, the sub-regulations that were drafted by members of the CSC and the CAA (during the two workshops organized by JSP in May and July 2012), will be presented to the MOJ, which is the relevant authority to pass and approve these rules.

These sub-regulations include:

- 1) Internal procedures for conducting the apprenticeship exam;
- 2) Conducting disciplinary procedures for court employees; and
- 3) Amending the existing sub-regulations for evaluation of court employees.

## **2.2.4 Development of Needs Based Budgets**

In consultation with the head of the Administrative Office (AO) of the Court Budget Council (CBC), the JSP decided to work with six pilot courts to develop a model “Needs-Based-Budget” and to work on the full use of ACCMIS and backlog reduction. The pilot courts are Basic Courts Skopje I, Bitola, Shtip, Tetovo and Veles; and the Appellate Court, Skopje.

The president of the Judicial Council (JC), Judge Alexandra Zafiroska, JSP COP Joseph Traficanti, and JSP DCOP, Nevenka Ivanovska, visited four of the pilot courts to support their efforts and to ensure that ACCMIS is being fully utilized, and is supporting the “Needs-Based Budget” initiative for all the courts. On August 17, JSP DCOP Nena Ivanovska and Judge Zafiroska, president of the JC, visited Basic Court Skopje, and are expecting to visit Basic Court Skopje I (awaiting the appointment of a president Judge) and Appellate Court Skopje.

During August, in cooperation with the JC and the AO of the CBC, and the president judges of the appellate regions, the JSP planned a schedule of roundtables in support of the “Needs-Based Budget” concept (as well as other topics such as enhancing the effectiveness of the courts’ case management committees). One roundtable will take place in each of the appellate regions throughout the month of September. The targeted audience will be the president judges of the basic courts and heads of departments.

## **3. RESULT 3: INCREASED FAIRNESS AND EFFICIENCY OF THE ADMINISTRATION OF JUSTICE THROUGH MORE EFFECTIVE LEGAL PERSONNEL AND EFFICIENT PROCESSES**

### **3.1 Requirement 3.1 - Develop and Implement Targeted Specialized Trainings for Judges, Court Administrative Executives, and Court Staff.**

#### **3.1.1 Training of Members of the Court Budget Council (CBC); Training on Management Responsibilities of President Judges and Court Administrators**

Capacity building and training on management responsibility is highly desired and required for president judges and court administrators. In a letter dated July 24, the JSP reached out to the Academy for Judges and Public Prosecutors (the Academy) for guidance on what the Academy sees as priorities in this area. On August 9, a preliminary email response was received from the director of the Academy suggesting that future cooperation in the area of commercial law is needed (see 3.1.2 below). No response has been received yet regarding the project’s suggestion on periodic coordination meetings. However, on August 31, the Academy director requested a luncheon meeting with the COP to start the coordination of efforts. This luncheon will take place on September 6<sup>1</sup>.

#### **3.1.2 Assessment of Specialized Training Needs for the Judicial Sector Commercial Law Judges and Lawyers**

There is a substantial need for the development of training for commercial department judges. As noted above, the JSP has been engaged in assessing various training needs including a specialized training for commercial judges. In two letters, one dated June 25 and the other one dated July 24, the JSP requested that monthly coordinating meetings be scheduled between the Academy and JSP personnel. This will allow periodic review of the needs and requirements of the Academy and enable the JSP to determine whether they are within the mandates and available resources of the project. The Academy has also been invited to take part of the questionnaire process with the IDEAS project, and to collaborate in a roundtable with the objective of developing training recommendations in the commercial law area. IDEAS is a

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<sup>1</sup> At the luncheon meeting the Academy director agreed to periodic coordination meetings



USAID project dedicated to the business community. The director of the Academy informed the JSP COP that a questionnaire regarding commercial cases was sent to the judges. The responses to this questionnaire are expected to be received by the end of August. As a result, the JSP did not pursue its original plan of polling judges and, instead, will rely on the information related to the responses received by the Academy.

In an e-mail dated August 9, the Academy director, Judge Arnaudovska, suggested that after receiving the questionnaire responses, the Academy and the JSP organize a joint roundtable with the commercial judges and representatives of certain associations to discuss the needs for training and the problems that most often appear in the commercial law procedures.

### **3.1.3 Assessment of Specialized Training Needs for Judicial Sector**

USAID requested the JSP to direct its attention to “discrete aspects of commercial law, civil law and civil procedure, legal research and writing, professional ethics and judicial decision-making.” There is also a mandate to develop, with the Academy, a minimum of six specialized training modules during the life of the project (within the next three years). Due to vacation schedules in August, it was not possible to organize a meeting with the Academy director this month. However, as mentioned above, the JSP COP will have a luncheon meeting with the Academy director on September 6.

## **3.2 Requirement 3.2 - Improve Caseload Processing and Reduce Backlog of Cases**

As noted above, pilot courts have been selected to further the concept of needs-based-budget and to increase the disposition rate of cases. This will contribute to a reduced backlog and an increased clearance rate (the ratio of filed cases and disposed cases). The president of the Judicial Council (JC), along with the JSP COP and DCOP, visited four of the six pilot courts, to ensure enthusiastic participation. During the 2012 fall, a series of events will be implemented to enhance the skill and capacity of the courts’ case processing committees created under the Law on Case Management. Those pilot courts with the highest functioning committees will be used as models. The sessions will take place regionally by appellate region.

### **3.2.1 Support for Judicial Sector Automation**

The JSP retained a local IT expert, Ms. Rozalija Vasilevska-Karcinska, to assess the use of the ACCMIS and other court automation systems, as well as to identify and report on impediments to its use by the courts and other users. At the request of the JC and the MOJ, the project requested the IT expert to prepare Terms of Reference (TORs) and technical specifications for an enhancement of the ACCMIS software. The JSP, together with the JC, intends to develop an “ACCMIS Database Warehouse and Statistical Interface Software” that will be able to generate more precise and targeted statistical reports for the courts. These specialized reports are needed by the JC, European Commission for Efficiency of Justice, and will support the JC’s statistical analyses needs, generate statistics for the MOJ and the Supreme Court.

The JSP, in consultation with the Home Office (HO) and the USAID COR, determined that this procurement can qualify as a “Sole Source Procurement” procedure. The original ACCMIS developer (EduSoft), which is still supporting the maintenance of the system through a long term contract, is the most appropriate software developer to obtain the desired enhancement and results due to its institutional knowledge of the project and its counterparts. Discussions with EduSoft (the potential sole source vendor), have been already initiated. On August 30, the JSP DCOP and project attorney met with representatives of EduSoft and discussed final refinements



needed to develop a proposal. The technical and cost proposal is due on or about September 5.<sup>2</sup>

### **3.2.2 Electronic Digital Recording of Court Hearings and Trials**

In the closing days of the previous USAID/JRIP rule of law project, electronic recording devices were installed in 80 courtrooms in Macedonia. The use of these devices has not been consistent. A number of judges raised a number of concerns including the importance of providing training on the electronic recording devices for the judges, and the court staff.

The JSP is committed to moving forward with expanding the use of these recording devices as they contribute to more openness and transparency, as well as more unjustified criticism protection to the judge and staff. The JSP COP and DCOP, and the USAID COR attended a simulation of the use of the device during a mock hearing in Basic Court, Skopje II. The COP and DCOP also met with the original vendor and trainer of the electronic recording devices to discuss strategies, and to increase and enhance the use this system.

Given this background, it was decided to experiment with the device in a way that will mollify the concerns of some of the appellate judges, who feared that time would not permit playing the entire record on appellate review. Due to these circumstances, the JSP will request Judge Ljubija Kolic of Skopje II basic court, to conduct a simulated trial using a protocol that allows preservation of the entire record of the trial and, at the same time, produce a trial summary dictated by the trial judge.

If successful, this will allow the appellate courts the ability to review the case on appeal in a familiar time-tested manner and a complete use of the technology. At the same time, it will preserve the entire record verbatim to resolve any disputes as to the accuracy of the trial judge's summary, and of course, provide openness and transparency. The results of the testing of this procedure will then be shared with the judicial policy makers.

The JSP wants to note, that provisions of the book of rules will need to be changed, especially the portion that requires the courts to produce a transcript of the record when requested. This is an unfunded mandate on the courts and cannot be practically implemented.

## **II. PROBLEMS AND REMEDIAL ACTIONS**

Problems have been minimal and in the nature of those to be expected in the regular course of business.

## **III. SUMMARY OF ACTIVITIES PLANNED FOR SEPTEMBER 2012**

Summary of activities planned for September include:

- Finalized evaluation and sign a contract for Capacity Development Program;
- Follow up with the IDEAS project on collection and collation of questionnaires for lawyers and the business community;
- Begin partners discussion regarding recommendations in assessment report of existing administration and management practices;
- Set schedule for implementation of selected recommendations when approved by partners and USAID;

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<sup>2</sup> The proposal was received on September 4 and is now in the final stage of negotiation.

- Public discussion on implementation of the Law on Civil Procedure by mid-September 2012;
- Training of selected NGOs and AO of CBC staff on “Preparing for Trainings and Events” on September 18, 2012;
- Identify potential members of a judicial working group to assess judicial reform progress and identify gaps in the law and implementation;
- Follow up regarding training needs assessment of commercial judges and recommendations with the director of the Academy;
- Establish a date for the first regular “Coordination Meeting” with the Academy, if agreed upon by Judge Arnaudovska;
- Continue to accumulate statistical data on case filings, dispositions, and backlogs by court and case type, and prepare an analysis of the case data;
- Continue to work with six pilot courts and supply support to meet targets;
- Provide support to the courts and the Supreme Court IT Department to implement the complete system and wide use of ACCMIS, and continue the implementation of the ICT expert recommendations;
- Continue on-site visits to pilot courts with the president of the judiciary to reinforce a need for full ACCMIS utilization, needs-based budgets, and clearance rate increase;
- Sole Source contract negotiated and signed for upgrade of ACCMIS to provide data required by Methodology for Court Statistics and Commission for Efficiency of Justice (CEPEJ);
- Oversee implementation of subcontract with EduSoft once signed;
- Sign memorandum of understanding (MOU) and cooperation between the project and the CAA;
- Organize one day workshop on “Accounting Protocols and Present to State Audit Bureau” on September 19, 2012
- Procure a court administration expert to introduce a “Differentiated Case Management System” to the Macedonian judiciary;
- Prepare proposal for first year study tour for NGOs and CSOs representatives;
- Four working meeting’s with basic and appellate courts (Bitola -September 6; Shtip – September 13; Skopje – September 20; and Gostivar - September 27,2012 )on “Needs-Based Budget,” and support review of proposals from the most troublesome courts by appellate region;
- Assess First Year Work Plan and schedule required events by end of year;
- Commence preparation of materials required for the preparation of the Second Year Work Plan;
- Prepare and plan for various fall activities with CAA, CSA, CBC, AO, and JC;
- Print project fact sheet;
- Continue updating the JSP web site;
- Begin pilot use of “Electronic Recording” of court hearings and report to policy makers;
- Plan court visits by two local schools in two courts along with media coverage; and
- Prepare for approval and printing of a brochure to be distributed to students and others visiting the schools.